IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 35 of 2000

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MURTUZAHUSSAIN FARHATATHUSSAIN

Versus

MADANLAL SHIVLAL SHARMA

Appearance:

1. Appeal from Order No. 35 of 2000

DR RAJESH H ACHARYA for Appellant No.

MR YJ TRIVEDI for Respondent No. 1-2

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 12/01/2005

ORAL JUDGEMENT

1. This Appeal from Order is preferred against the order dated 21st January, 2000 below injunction Application at Exh. 4 in Regular Civil Suit No. 2 of

1999 passed by the learned Extra Assistant Judge, Banaskantha at Palanpur, whereby the Trial Court has passed the following order :-

"This application is allowed. It is ordered that the defendants, their agents, servants, dealers, distributors, representatives etc., are hereby restrained by this injunction order from using the mark "KARISHMA" in respect of scented supari and Guthka and/or any other mark, which may be identical and deceptively similar to the plaintiff trade mark, KARISHMA and also restrained them from committing act of passing of action till the hearing and final disposal of the suit."

2. I have heard the learned advocates for the respective parties and have perused the relevant record. While admitting the appeal, no order was passed in the Civil Application. However, on 16th February, 2000, this Court had rejected the prayer made in the application on the ground that grant of prayer would amount to allowing the Appeal and, therefore, the said application was rejected and status-quo was also vacated.

3. Looking to the facts and circumstances of the case and also since the Suit is of the year 1999, I am of the opinion, that ends of justice would be me if the trial Court is directed to expedite the suit. Accordingly, it is directed that the Trial Court shall expedite the suit and shall disposed of the same in accordance with law as expeditiously as possible.

4. With the above observations and directions, the Appeal from Order stands disposed of accordingly.

[K.S. JHAVERI, J.]

/phalguni/